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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,110	09/23/2003	Steven H. Peterson	050822	3115
26285 7590 01/31/2007 KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP 535 SMITHFIELD STREET PITTSBURGH, PA 15222			EXAMINER EVANS, FANNIE L	
			ART UNIT 2877	PAPER NUMBER
			MAIL DATE 01/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary	Application No.	Applicant(s)	
	10/669,110	PETERSON ET AL.	
	Examiner	Art Unit	
	F. L. Evans	2877	

All participants (applicant, applicant's representative, PTO personnel):

(1) F. L. Evans (primary examiner). (3) _____.

(2) Daniel R. Miller (applicant's representative). (4) _____.

Date of Interview: 17 January 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: 1, 5, 9 and 21.

Identification of prior art discussed: McCarthy (US 5,137,364) and Nakanishi et al. (US 6,534,794).

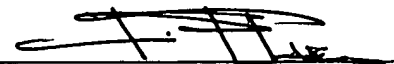
Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


 Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: McCarthy's disclosure of controlling the temperature of the illuminator and applicant's disclosure of maintaining the temperature of the illuminator substantially equal to a target temperature that is greater than an ambient operating temperature of the instrument (claims 1, 5 and 9) was discussed in great detail. The examiner indicated that any amended or newly presented claims would probably not be entered in that they would raise new issues that would require further consideration and/or search.

PTOL-413A (09-06)
Approved for use through 03/31/2007. CMB 0561-0001
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Applicant Initiated Interview Request Form

Application No.: 10/669,110 First Named Applicant: Peterson
 Examiner: Ms. F.L. Evans Art Unit: 2877 Status of Application: Final OA pending

Tentative Participants:
 (1) Ms. F.L. Evans (2) _____
 (3) Daniel R. Miller (4) _____

Proposed Date of Interview: 01/17/2007 Proposed Time: 2:00 PM (AM/PM)

Type of Interview Requested:
 (1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO
 If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rejection</u>	<u>Claims 1, 5, 9, 21</u>	<u>5,137,364; 6,534,794</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Continuation Sheet Attached					

Brief Description of Arguments to be Presented:
The Examiner requires cancellation of alleged new matter in claims 1 and 5 ("second substrate"),
claim 9 ("substrate"), and claim 21 ("sensor substrate"), and states that the rejections of the previous
office action will be re-instated. Even if these features are cancelled from their respective claims, (cont.)

An interview was conducted on the above-identified application on January 17, 2007
 NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview
 (see MPEP § 713.01).
 This application will not be delayed from issue because of applicant's failure to submit a written record of this
 interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.153(b))
 as soon as possible.

Daniel R. Miller
 Applicant/Applicant's Representative Signature

[Signature]
 Examiner/SPE Signature

Daniel R. Miller
 Typed/Printed Name of Applicant or Representative

52,030
 Registration Number, if applicable

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JAN 16 2007

This collection of information is required by 37 CFR 1.153. The information is required to obtain or retain a benefit by the public which is in the (and by the CPTO to process) an application. Confidentiality is governed by 35 U.S.C. 121 and 37 CFR 1.11 and 1.14. This collection is submitted in this 21 subject to completion, including gathering, preparing, and submitting the completed application form to the USPTO. There will vary depending upon the individual case. Any comments on the accuracy of this form should be submitted to the USPTO. For more information, please contact the USPTO. U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Correspondence for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Continuation Sheet
Applicant Initiated Interview Request Form
App. No. 10/669,110
Examiner: F.L. Evans
Art Unit: 2877

Brief Description of Arguments to be Presented (cont.):

Applicant submits that other features of at least claims 1, 5 and 9 are not disclosed by the references of record. For example, neither of U.S. Patent Nos. 5,137,364 or 6,534,794 disclose (i) axes of illumination and detection that form a non-zero angle, or (ii) control means ...for controlling the temperature changing element such that the temperature of the illuminator means is maintained substantially equal to a target temperature that is greater than an ambient operating temperature of the instrument. Support for each of these features may be found, for example, at page 12, lines 12-15 and page 7, line 9 through page 8, line 12 of the originally-filed application. Applicant thus submits that these features are not new matter. Accordingly, even if the "second substrate," "substrate" and "sensor substrate" features are cancelled as the Examiner requires, Applicant submits that at least claims 1, 5 and 9 remain patentable over the references of record in view of at least features (i) and (ii) noted above. For this reason, Applicant respectfully disagrees with the Examiner's statement at page 3 of the office action that the rejections set forth in the previous office action may be properly re-instated upon cancellation of alleged new matter.